

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

GERTRUDE NEUMARK ROTHSCHILD,

Plaintiff,

v.

CREE, INC.,

Defendant.

No. 10-CV-10133 WGY

CREE'S STATEMENT OF UNDISPUTED MATERIAL FACTS

In support of its Supplemental Memorandum In Support Of Its Motion [No. 2] for Summary Judgment of Patent Invalidity, Defendant Cree, Inc. ("Cree") respectfully submits this statement of material facts as to which there are no genuine disputes to be tried. Cree contends that there are no genuine disputes of material fact precluding summary judgment for Cree that the '618 patent is anticipated by the Crowder article and that the '618 and '499 patents are invalid for lack of an enabling disclosure.

Cree acknowledges that the declarations and exhibits already submitted to demonstrate the patents are invalid may be voluminous. Accordingly, rather than submit another lengthy document that would essentially restate the information in Dr. Bretschneider's Declaration and the applicable opinions in his Expert Report, Cree will incorporate by reference Dr. Bretschneider's opinions, and the bases for them, including all supporting facts and references therein, as Cree's Statement of Undisputed Material Facts.

Accordingly, Cree hereby incorporates by reference as if set forth herein each paragraph

of the concurrently filed Declaration of Dr. Eric Bretschneider in Support of Cree's Motion [No. 2] for Summary Judgment of Patent Invalidity and Dr. Bretschneider's Expert Report, including the references and citations to facts and evidence contained therein, that regard anticipation of the '618 patent by the Crowder article and invalidity of the '618 and '499 patents for lack of an enabling disclosure. Over and above other citations to evidence contained within Dr. Bretschneider's declaration and Expert Report, each paragraph will also be considered to contain a citation to itself as evidence.

Cree sets forth its statement of facts in the above manner to avoid an extremely voluminous submission that would be duplicative of the incorporated declaration and Expert Report. To the extent that the Court would prefer a formal restatement of the facts not accomplished by incorporating other documents by reference, Cree will provide such a statement upon request.

DATED: March 19, 2010

By: /s/ David C. Radulescu

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ATTORNEYS FOR DEFENDANT,
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CERTIFICATE OF SERVICE

I hereby certify that on March 19, 2010 a true copy of the foregoing document CREE'S STATEMENT OF UNDISPUTED MATERIAL FACTS was served upon the attorney of record for each other party by the Court's ECF system pursuant to Local Rule 5.2(b).

/s/ David C. Radulescu

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